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FM AMEMBASSY ISLAMABAD
TO RUEHAH/AMEMBASSY ASHGABAT PRIORITY 2171
RUEHTA/AMEMBASSY ASTANA PRIORITY 0069
RUEHKB/AMEMBASSY BAKU PRIORITY 0108
RUEHEK/AMEMBASSY BISHKEK PRIORITY 4114
RUEHDBU/AMEMBASSY DUSHANBE PRIORITY
RUEHBUL/AMEMBASSY KABUL PRIORITY 6976
RUEHLO/AMEMBASSY LONDON PRIORITY 5396
RUEHNE/AMEMBASSY NEW DELHI PRIORITY 0660
RUEHFR/AMEMBASSY PARIS PRIORITY 4575
RUEHNT/AMEMBASSY TASHKENT PRIORITY 2904
RUEHKP/AMCONSUL KARACHI PRIORITY 5387
RUEHLH/AMCONSUL LAHORE PRIORITY 1913
RUEHPW/AMCONSUL PESHAWAR PRIORITY 0202
RHEHNSC/NSC WASHDC PRIORITY
RUEAIIA/CIA WASHDC PRIORITY
RUEHC/SECSTATE WASHDC PRIORITY 8124
RUEHNO/USMISSION USNATO PRIORITY 2100

C O N F I D E N T I A L ISLAMABAD 001456

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TAGS: [PGOV](#) [PK](#) [PREL](#)
SUBJECT: CHIEF JUSTICE UPDATE

Classified By: Charge Peter Bodde 1.4 (b) and (d)

¶1. (C) Summary: The Supreme Judicial Council deciding the fate of Chief Justice Iftikhar Chaudhry is scheduled to meet again on April 3. Islamabad police are planning for a possibly large demonstration that day, but public interest in the Chief Justice controversy has declined markedly during the last week. End Summary.

¶2. (C) During an April 1 meeting with Codel Tierney, Aitzaz Ahsan, lead counsel for "non-functioning" Chief Justice Iftikhar Chaudhry, updated the Codel on proceedings against his client. At the April 3 meeting of the Supreme Judicial Council, Aitzaz will present three petitions asking the Council to: 1.) End the in-camera nature of the proceedings; 2.) Dismiss at least three judges from the Council because of known conflicts of interest and/or personal enmity of the Chief Justice; and 3.) Dismiss the Council altogether because there is no constitutional mandate for a Supreme Judicial Council not headed by the Chief Justice. (Note: According to Aitzaz, under the constitution, only the Chief Justice can chair a Supreme Judicial Council. No constitutional alternative exists if the Chief Justice himself is the subject of the Council's inquiry. Aitzaz claims the proper way to deal with a Chief Justice accused of malfeasance or misconduct is an impeachment trial by the entire Supreme Court, not a Supreme Judicial Council. Aitzaz plans to cite American practice as a precedent: according to Aitzaz, the Chief Justice of the U.S. Supreme Court is never able to recuse himself from a case. When he is aware of a conflict of interest, he does not participate in the debate or vote, but he still acts as Chief Justice, leading the Court on the matter. End Note.)

¶3. On April 2, Attorney Zafarullah Khan filed a petition with the Supreme Court arguing that the proceedings against the Chief Justice were unconstitutional for a variety of procedural and constitutional reasons. The Court agreed to hear his petition -- along with two other similar petitions -- on April 11, but refused to suspend the Supreme Judicial Council until then. The Court also agreed to hear another petition claiming that Acting Chief Justice Bhagwandas cannot serve as Acting Chief Justice because he is a Hindu. The court will hear that petition on April 4. (Note: While it is

true that the Chief Justice normally also serves as Chief of the Shariat Court, legal experts tell us there is no constitutional requirement for the Chief Justice to be a Muslim -- the Chief Justice can simply appoint a surrogate to head the Shariat Court. End Note.)

¶4. Aitzaz reports that the demonstration planned for the street in front of the Supreme Court on April 3 will draw "a large crowd", despite this week's major PPP rally in Larkana, the ancestral home of the Bhuttos. The PPP expects about half a million of the faithful to attend the Sindh rally, which memorializes the hanging of Zulfikar Ali Bhutto.

¶5. (C) Comment: While still an occasional topic of conversation among the elites, general interest in the Chief Justice controversy has dramatically declined over the last week. The one event that could reignite public passion would be if related protest marches became violent. We continue to encourage both the government and demonstrators to show restraint and to eschew violence. End Comment

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